



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

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The Office of the Attorney General has reviewed the definition of "retail competition" circulated by the ICC Staff on April 5, 2006, as well as the alternative definitions and comments submitted by the Citizens Utility Board, the City of Chicago, the Illinois Industrial Energy Consumers, the Coalition of Energy Suppliers, Sempra Energy Solutions, Commonwealth Edison and Ameren. While the Office of the Attorney General is reluctant to be drawn into another ICC-sponsored "consensus process" in which there are no procedural safeguards and no clear rules as to what constitutes a consensus, we nonetheless wish to offer several observations:

(1) The Office of the Attorney General supports the retail competition comments that have been submitted by the Citizens Utility Board and the City of Chicago. In particular, we share the view that "price discipline" is a necessary component of any definition of retail competition. We also share the view that retail competition requires active market participation by entities that are not affiliates of the incumbent electric utility.

(2) The Office of the Attorney General supports the retail competition comments that have been submitted by the Illinois Industrial Energy Consumers. In particular, we share IIEC's view that a definition of retail competition should incorporate quantitative benchmarks such as the number of alternative suppliers actually serving each customer segment. We also share IIEC's view that the effectiveness of retail competition should be measured against a standard "such as an estimate of what retail power prices would have been in Illinois under traditional regulation."

(3) The Office of the Attorney General notes that House Bill 5766 includes quantitative benchmarks to evaluate retail competition. HB 5766 proposes new criteria for "declaration of a service as competitive service" pursuant to Section 16-113 of the Public Utilities Act. The bill sets quantitative benchmarks, allowing a competitive declaration "only after the electric utility demonstrates that at least 33% of the customers in the electric utility's service area that are eligible to take the class of tariffed service instead take service from alternative retail electric suppliers . . . and that at least 3 alternative retail electric suppliers provide service that is comparable to the class of tariffed service to those customers in the utility's service area that do not take service from the electric utility."

(4) The Office of the Attorney General urges Staff to reject the incumbent utilities' attempts to preserve their monopoly status. Inviting incumbent utilities to participate in a workshop to promote retail competition is not unlike inviting the fox to help design a more secure chicken coop. It is, therefore, not surprising that ComEd and Ameren have proposed revisions to Staff's definition of retail competition that would change the definition so that utilities would not be precluded from maintaining their monopoly status. We urge Staff to reject the incumbent utilities' attempts to eviscerate the definition of retail competition in this manner.

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